

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

ELIJA VARELA,

Plaintiff,

v.

CIVIL NO. 1:24-CV-47  
(KLEEH)

WALMART SUPERCENTER,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 12] AND  
DISMISSING ACTION WITHOUT PREJUDICE

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On April 29, 2024, this action, filed by pro se Plaintiff Elija Varela ("Plaintiff"), was removed to the United States District Court for the Northern District of West Virginia. Pursuant to 28 U.S.C. § 636 and the Local Rules, the Court referred the case to United States Magistrate Judge Michael J. Aloï (the "Magistrate Judge") for review. On May 6, 2024, Defendant filed a motion to dismiss. On December 18, 2024, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court grant the motion and dismiss the action without prejudice.

The R&R informed the parties that they had fourteen (14) days from the date of service of the R&R to file "specific written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection." It further warned them that the "[f]ailure to timely file written objections . . . shall constitute a waiver of de novo

VARELA V. WALMART SUPERCENTER

1:24-CV-47

**ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 12] AND  
DISMISSING ACTION WITHOUT PREJUDICE**

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review by the District Court and a waiver of appellate review by the Circuit Court of Appeals.” Plaintiff accepted service of the R&R on December 21, 2024. To date, no objections have been filed.

When reviewing a magistrate judge’s R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, “the Court may adopt, without explanation, any of the magistrate judge’s recommendations” to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603–04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 12]. Defendant’s motion to dismiss is **GRANTED** [ECF No. 5], and Plaintiff’s motion is **DENIED** [ECF No. 10]. This action is **DISMISSED WITHOUT PREJUDICE** and **STRICKEN** from the Court’s active docket.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record via email and the pro se Plaintiff via certified

VARELA V. WALMART SUPERCENTER

1:24-CV-47

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 12] AND  
DISMISSING ACTION WITHOUT PREJUDICE

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mail, return receipt requested.

DATED: January 22, 2025

Handwritten signature of Thomas S. Klee in black ink.

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THOMAS S. KLEE, CHIEF JUDGE  
NORTHERN DISTRICT OF WEST VIRGINIA